

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

DIVISION OF CREDIT UNIONS

NEWSLETTER

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WHAT'S NEW

The "What's New" section on the Division of Credit Unions' web site publishes hot topics of current interest or repeated findings in credit unions being examined. We welcome your suggestions on topics of interest or information that should be addressed. Similarly, we invite questions, suggestions or comments on the topics we write about. We can receive them by e-mail addressed to cu@ded.state.mo.us, calling the Division of Credit Unions at (573) 751-3419 or contacting your assigned examiner.

BOARD POLICIES

A number of recent examinations have noted the lack of board-approved policies in three areas: Allowance for Loan and Lease Losses, Bank Secrecy Act (BSA), and Office of Foreign Asset Control (OFAC).

Allowance - A comprehensive policy should be developed and approved by the board that describes the method used by the credit union to determine expected losses in the loan portfolio. This policy should be developed in consultation with the credit union's CPA to ensure the method is acceptable and results in a fair valuation of loans on the balance sheet. The method developed and agreed to by the CPA must be applied consistently on at least a quarterly basis.

Bank Secrecy Act - Although most credit unions comply in practice with reporting requirements of the Bank Secrecy Act, the board should adopt a policy to assure the credit union meets the requirements of the regulation.

OFAC - To ensure compliance with the Office of Foreign Asset Control, the board of directors needs to establish a policy restricting the conduct of any business or transactions with prohibited individuals. Compliance with the policy will help avoid substantial civil and criminal penalties.

Please review your current policy manual to determine if the board of directors has addressed these issues through written policy.

SOLDIER SAILOR RELIEF ACT

With 250,000 U.S. service personnel in the Persian Gulf,

many credit unions and state regulators are brushing up on the obligations of financial institutions under the Soldier Sailor Relief Act. As a reminder:

The tradition of Congress granting relief to active duty military personnel dates back to the Civil War. The present federal legislation, last amended in 1991, is the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA). Under the provisions of the SSCRA, active duty military personnel may be qualified for the following:

- reduced interest rate on mortgage payments
- reduced interest rate on credit card debt
- protection from eviction if rent is \$1200 or less
- delay of all civil court actions

The above provisions are not automatic. A credit union member seeking relief under the SSCRA would have to notify the institution and demonstrate that their active service has a "material effect" on their ability to meet their financial obligations. The test is two pronged. First, the member must demonstrate that as a result of their active duty service, their income has declined. Secondly, the decline in income has affected their ability to meet financial obligations.

The SSCRA caps terminate immediately upon the discharge of the member's active duty service.

Below are some resources for more information on the SSCRA.

1. American Forces Information Service, www.defenselink.mil/specials/Relief_Act_Revision
2. U.S. Military, www.usmilitary.about.com

FIELD OF MEMBERSHIP APPLICATION UPDATE

Springfield Telephone Employees Credit Union (now **Telcomm Credit Union**) submitted an application to include those persons who reside or work in the 417 telephone Area Code and the 573 (bordered on the north by I-70) telephone Area Code. The Director approved the expansion of **Springfield Telephone Employees Credit Union** to those in the 417 Area Code, but not the 573 Area Code. The decision was published in the November 15, 2000 Missouri Register. On November 30, 2000 the Missouri Bankers Association (MBA) and Century Bank of the Ozarks (CBO) filed an appeal of the decision to

the Credit Union Commission. The Commission heard the appeal on March 29, 2001. On May 24, 2001 the Commission upheld the decision of the Director. On August 16, 2001, the decision was released and the Director filed **Springfield Telephone Employees Credit Union's** amended bylaws with the Secretary of State. On September 14, 2001, the MBA and CBO filed a petition for administrative review in Cole County Circuit Court.

On November 19, 2001, a hearing was held before Judge Tom Brown, Division 1, Circuit Court of Cole County. The motion to refer the case to another division of the court was granted and the case was referred to Judge Byron Kinder, Division 2. A motion to dismiss the case for lack of standing was heard on January 3, 2002. On January 29, 2002 the court ruled the plaintiffs lack standing to maintain causes of action set forth in their petition and ordered the plaintiffs' petition be dismissed. On March 11, 2002 the MBA and CBO filed an appeal of the decision in the Western Appellate Court of Appeals. Appellant's briefs were due June 3, 2002 with the respondent's briefs due July 3, 2002. A hearing by the Western Appellate Court was held on October 3, 2003 in Kansas City. On January 14, 2003, the Appellate Court upheld the decision of Cole County Circuit Court. On January 14, 2003, the MBA and CBO filed motions for a rehearing and transfer to the Missouri Supreme Court. The Appellate Court on March 4, 2003 denied the motions. On March 19, 2003, the MBA and CBO filed for a hearing with the Missouri Supreme Court.

South Community Credit Union submitted an application for those who work or reside in Zip Codes 63109, 63111, 63116, 63123, 63125, 63128, 63129, and Crawford County, Franklin County, Gasconade County and Washington County. **Central Communications Credit Union** submitted an application for those persons who reside or work in the 816 telephone Area Code. The Director approved the applications submitted by **South Community and Central Communications Credit Unions**. These decisions were published in the November 15, 2000 Missouri Register. On November 30, 2000 the MBA and two local banks located in each of the two applicants' field of membership expansion areas filed appeals of the decisions to the Credit Union Commission. The Commission received the record of appeals from all parties on May 24, 2001. On August 9, 2001, the Commission upheld the decisions of the Director. The written decisions were released on January 25, 2002. On February 21, 2002, the MBA and the local banks filed a petition for administrative review in Cole County Circuit Court. Both cases were assigned to Judge Tom Brown, Division 1. On April 17 the cases were reassigned to Judge Byron L. Kinder, Division 2 and a motion was entered to stay the proceedings until the outcome of the Springfield Telephone Employees case was decided. The cases can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; the case numbers are 02CV323402 and 02CV323401.

Educational Employees Credit Union (now Vantage Credit Union) submitted an application for those who

live or work in St. Louis County, St. Charles County, Jefferson County, Cape Girardeau County and Franklin County. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001 Missouri Register. On March 1, 2001 the MBA and two banks located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission received the record of appeal of **Educational Employees Credit Union** on October 19, 2001 and established briefing schedules. On March 5, 2002, the Commission dismissed the appeal due to lack of standing. On July 18, 2002 the MBA and the two banks filed a Petition in Mandamus in Cole County Circuit Court. An order by Cole County District Court staying the case was entered on December 2, 2002. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 02CV324797.

City Utilities Credit Union submitted an application for community residents and workers in Greene and Christian Counties. The application was published in the June 1, 2001 Missouri Register. The Director approved the application and his decision was published in the August 1, 2001 Missouri Register. On August 14, 2001 the MBA and a local bank located within the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On August 8, 2002 the Commission heard and denied the appeal for lack of standing. The decision was released on December 9, 2002. On January 2, 2003, MBA and the local bank filed a Petition in Mandamus in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 03CV323001.

First Community Credit Union submitted an application for individuals who reside or work in the counties of Lincoln, Warren, Franklin, Washington, St. Francois, Ste. Genevieve, Pike, Montgomery, Gasconade and Crawford in the state of Missouri and the City of St. Louis. The application was published in the August 1, 2002 Missouri Register. The Director approved the application and his decision was published in the September 16, 2002 Missouri Register. On September 26, 2002 the MBA and a local bank located within the field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission at their October 31, 2002 meeting established the briefing schedule for the appeal. The Commission considered the appeal at their January 15, 2003 meeting heard but took no action.

Alliance Credit Union submitted an application for those who work or reside in St. Charles County or St. Louis County. The application was published in the November 15, 2002 Missouri Register. The Director approved the application and his decision will be published in the January 16, 2003 Missouri Register. On

January 30, 2003, the MBA and Allegiant Bank filed an appeal of the Director's decision with the Credit Union Commission. The Commission at a future meeting will consider the appeal.

St. Louis Postal Credit Union submitted an application for those who live or work in the Zip Codes 63005, 63017, 63042, 63043, 63044, 63126, 63127 and St. Charles County. The application was published in the December 2, 2002 Missouri Register. The director approved the application and his decision will be published in the January 16, 2003 Missouri Register. A fifteen calendar period for appeal must occur before the decision is final. On January 30, 2003, the MBA and Midwest Bank Centre filed an appeal of the Director's decision with the Credit Union Commission. The Commission at a future meeting will consider the appeal.

United Community Credit Union, an Illinois chartered credit union, submitted an application for those who live or work in the Missouri counties of Lewis, Ralls and Marion. The application was published in the January 2, 2003 Missouri Register. The director approved the application and his decision was published in the February 18, 2003 Missouri Register. On March 4, 2003 the MBA and the Farmers and Merchants Bank and Trust Company filed an appeal of the Director's decision with the Credit Union Commission. The Commission at a future meeting will consider the appeal.

BUDGET FACTS

As you have heard or read, the state budget has been particularly challenging since the recession started. The main problem is collections into what is known as general revenue. This is basically all collections that are not earmarked for specific purposes and make up less than half of the entire state budget. The other pieces are federal funds and designated funds.

All collections by the Division of Credit Unions are designated funds and are deposited by the state treasurer into the Division of Credit Unions' Fund (the fund) for the sole and exclusive use of the Division. Interest earned on these funds is also credited to the fund.

Every year the General Assembly and the Governor, through the budget process appropriates the maximum amount the Division may spend during the fiscal year. This is contained in House Bill 7 and is an actual law.

Although the Division may have the appropriated funds to spend, often the Division is directed to not spend the appropriated amount. Salaries are an example. The Office of Administration and the Department of Economic Development establishes salary administration. While there is some consideration for the Division's changing needs, salary administration policies must be followed. State employees have not been granted a cost of living

increase for what will now be three consecutive years. Although personnel promotions with salary increases are occurring, they must follow salary administration guidelines.

When the Division bills credit unions for the semi-annual fee, consideration is given to the balance in the fund compared with anticipated needs. Consequently, over time the Division only bills what we spend. You may have noticed the percentage that has been billed has decreased for several periods.

In conclusion, the Division is adequately funded. However, due to the current economic conditions we are unable to spend the funds that we feel are necessary. We trust this gives a simplified version of a complex budgeting/appropriation system and the current condition of state finances.

FROM THE DIRECTOR

Newsletter

Recently, one state, for cost savings discontinued the paper version of their Newsletter converting to an electronic publication. We send our newsletter by U.S. Mail but also deliver it to several credit unions via e-mail. The Newsletter is also on the Division of Credit Unions' web site and previous editions are archived there. The cost of publishing our Newsletter is nominal (about \$150 per Newsletter) since it is done in house using existing equipment and personnel. Notify us by e-mail at cu@ded.state.mo.us if you can receive the Newsletter by e-mail and save our postage and paper costs.

We are sending the Newsletter by e-mail to board and committee members. If you would like our extending this service to your officials, please send their e-mail addresses to cu@ded.state.mo.us.

The results of the 2002 credit union survey disclosed that fifty-one percent of credit unions responding are using the internet. Missouri credit union law, Division of Credit Unions' forms, credit union financial and other information are on our internet web site. I urge your taking a look at our site at <http://www.ecodev.state.mo.us/cu/>. Individual credit union data can be found at <http://www.ncua.gov/>. The internet is a powerful tool that can benefit us all in many ways.

Annual Meetings

Once again, I appreciate invitations to attend credit union annual meetings whether to deliver remarks or just be present to meet and greet the members. Because of scheduling I cannot attend all the meetings but do appreciate the invitation.

Your Credit Union's Newsletter

If you have a newsletter, please share the issues with the Division of Credit Unions by sending a copy to the office and your examiner or sending us a link to your newsletter if it published on the internet.

A handwritten signature in blue ink, reading "John P. Smith", is positioned to the left of a vertical line.

John P. Smith, Director